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2007 JUN 26 A 9:41 I hereby certify that the  
annexed instrument is a true  
and correct copy of the original  
as on file in my office.  
DOCK P. HACKETT, Clerk  
U.S. DISTRICT COURT  
MIDDLE DISTRICT ALABAMA  
U.S. District Court  
Western District of Washington  
Deputy Clerk

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BILL LIETZKE,

Plaintiff,

v.

CITY OF MONTGOMERY, et al.,

Defendants.

Case No. C07-889-RSL

2:07cv588-ID

ORDER TRANSFERRING CASE

Plaintiff Bill Lietzke, appearing *pro se*, has filed an application to proceed *in forma pauperis* and a proposed 42 U.S.C. § 1983 civil rights complaint against the City of Montgomery, Alabama, and several of its law enforcement officials. Dkt. No. 1-1. After careful consideration of the complaint, governing law, and the balance of the record, the Court finds that venue is improper, and ORDERS that this case be TRANSFERRED to the United States District Court for the Middle District of Alabama.

A. The Complaint

Plaintiff's complaint alleges that from June 9, 1997, through March 4, 2007, the City of Montgomery, through several of its police officers, repeatedly harassed him on several of the public streets of Montgomery. Dkt. No. 1-1 at 5-21. The complaint alleges that plaintiff's First Amendment rights of free speech and assembly were violated, and states causes of action for negligence, criminal trespass, false imprisonment, assault, harassment,

01 and menacing. *Id.* at 21-24. Plaintiff seeks the immediate imprisonment of the named  
02 individual defendants, more than one billion dollars in compensatory damages, and an  
03 “immediate shut down” of the “intersections of Grove Street at South Court Street, and Grove  
04 Street at South McDonough Street.” *Id.* at 4.

05 B. Improper Venue

06 Venue for actions not based solely on diversity of citizenship is determined by 28  
07 U.S.C. § 1391(b), which states:

08 A civil action wherein jurisdiction is not founded solely on diversity of  
09 citizenship may, except as otherwise provided by law, be brought *only* in (1) a  
10 judicial district where any defendant resides, if all defendants reside in the  
11 same State, (2) a judicial district in which a substantial part of the events or  
12 omissions giving rise to the claim occurred, or a substantial part of property  
13 that is the subject of the action is situated, or (3) a judicial district in which any  
14 defendant may be found, if there is no district in which the action may  
15 otherwise be brought.

12 28 U.S.C. § 1391(b) (emphasis added).

14 Here, each of the named defendants—the City of Montgomery, Mayor Bobby Bright,  
15 Police Chief Art Baylor, and Walter Byers—reside in the State of Alabama, not the State of  
16 Washington. Furthermore, all of the events or omissions giving rise to the claims in  
17 plaintiff’s complaint occurred in Alabama, not Washington. Accordingly, venue is not proper  
18 in the United States District Court for the Western District of Washington.

19 Title 28 U.S.C. § 1406(a) provides that “[t]he district court of a district in which is  
20 filed a case laying venue in the wrong division or district shall dismiss, or if it be in the  
21 interest of justice, transfer such case to any district or division in which it could have been  
22 brought.” Because the defendants reside in Alabama, and because all of the acts or omissions  
23 giving rise to plaintiff’s claims occurred in Alabama, this action could have been brought in  
24 the United States District Court for the Middle District of Alabama. The Court finds that a  
25 transfer to the United States District Court for the Middle District of Alabama is in the  
26 interests of justice.

01 C. Conclusion

02 The Clerk of Court is directed to TRANSFER this case to the United States District  
03 Court for the Middle District of Alabama pursuant to 28 U.S.C. § 1406(a). As a result,  
04 plaintiff's application to proceed *in forma pauperis* (Dkt. No. 1) is DENIED as MOOT.

05 The Clerk of Court is further directed to send a copy of this Order to plaintiff and to  
06 the Honorable James P. Donohue, United States Magistrate Judge.

07 DATED this 19<sup>th</sup> day of June, 2007.

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10 Robert S. Lasnik  
11 United States District Judge

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18 Recommended for entry  
19 this 19th day of June, 2007.

20 /s/ JAMES P. DONOHUE  
21 United States Magistrate Judge  
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